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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,125	03/15/2004	Sebastian Weitbruch	PD030031	9180
24498	7590	02/26/2009		
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EXAMINER				
SHAPIRO, LEONID				
ART UNIT		PAPER NUMBER		
2629				
MAIL DATE		DELIVERY MODE		
02/26/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/801,125

Applicant(s)

WEITBRUCH ET AL.

Examiner

Leonid Shapiro

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-10 and 13-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-10 and 13-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-2,9-10,15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshiya (JP 05-075951).

As to claim 1, Yoshiya teaches method for driving display means having a predefined display area for displaying, a video image being smaller than the display area in order to suppress the marking effect and to limit the disturbing effect of unused display sections (paragraphs 0001,0007-0008) comprising the steps of providing a video signal for displaying a video image being smaller than said display area, so that one or more unused display sections remain on the display area (fig. 6, items L1-L2, paragraph 0004), and driving said one or more unused display sections with at least one predetermined signal (fig. 6, items L1-L2, paragraphs 0007-0008), wherein said at least one predetermined signal is computed on the basis of one or more analysing areas within said display area, directly abutting on said one or more unused areas (drawing 6, items L1-L2, paragraph 0024) and wherein said at least one predetermined signal is computed by evaluating the quantity of similar brightness level in said analysing areas and by selecting a brightness level according to significant

quantity at which brightness level occur in said analysing area abutting on said one or more unused areas in order to suppress the marking effect and to limit the disturbing effect of the unused display sections (drawing 6 (b), items L1-L2, par. 8, Constitution).

Yoshiya teaches inserting the average level of the video signal into margin section (constitution).

Yoshiya does not disclose predetermined signal is computed by evaluating the quantity of similar brightness level in said analysing areas and by selecting a brightness level according to significant quantity at which brightness level occur in said analysing area abutting on said one or more unused areas.

However, it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute significant quantity at which brightness level occur with the average level in order in order to suppress the marking effect and limit the disturbing effect of the unused display sections, as recited in claim 1.

As to claim 9, Yoshiya teaches device for driving display means having a predefined display area for displaying, a video image being smaller than the display area in order to suppress the marking effect and to limit the disturbing effect of unused display sections (paragraphs 0001,0007-0008) comprising:

determining means for determining one or more unused display sections remaining on the display area when driving display means with predetermined video signal (fig. 1, items 7-8, paragraphs 0012-0013), , and

driving means connected to said determining means for driving said one or more unused display sections with at least one predetermined signal, said at least one

predetermined signal being variable in accordance with said video signal (fig. 1, items 7-9, paragraphs 0012-0013 and fig. 6, items L1-L2, paragraphs 0007-0008), and

wherein said at least one predetermined signal is computed on the basis of one or more analysing areas within said display area, said one or more analysing areas directly abutting on said one or more unused areas (drawing 6, items L1-L2, paragraph 0024) and wherein said at least one predetermined signal is computed by evaluating brightness values concerning the quantity at which brightness level occur in one of said analysing areas and by selecting a brightness level according to significant quantity at which brightness level occur in a present video signal for displaying a video image in said analysing area abutting on said one or more unused areas in order to suppress the marking effect and to limit the disturbing effect of the unused display sections (drawing 6 (b), items L1-L2, par. 8, Constitution).

Yoshiya teaches inserting the average level of the video signal into margin section (constitution).

Yoshiya does not disclose predetermined signal is computed by evaluating the quantity of similar brightness level in said analysing areas and by selecting a brightness level according to significant quantity at which brightness level occur in said analysing area abutting on said one or more unused areas.

However, it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute significant quantity at which brightness level occur with the average level in order in order to suppress the marking effect and limit the disturbing effect of the unused display sections, as recited in claim 1.

As to claims 2,10 Yoshiya teaches unused sections include sidebars (fig.6, item L2).

As to claims 15-18 Yoshiya teaches driving means is capable of limiting the brightness of said at least one predetermined signal to a maximum brightness below the maximum practical brightness of the luminous elements of said display means (in the reference average level)(see constitution).

2. Claims 5-8,13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshiya as applied to claims 5,11 above, and further in view of Milch et al. (US 7,002,593 B2).

As to claims 5-6,13-14 Yoshiya teaches taking a medium brightness of said significant part for said at least one predetermined signal (constitution).

Yoshiya does not disclose at least one predetermined signal is computed by evaluating a histogram of brightness values of one of said analysing areas by applying a threshold to histogram in order to obtain a significant part of the histogram.

Milch et al. teaches at least one predetermined signal is computed by evaluating a histogram of brightness values of one of said analysing areas by applying a threshold to histogram in order to obtain a significant part of the histogram (col. 3, lines 10-32).

It would have been obvious to of ordinary skill in the art at the time of the invention to incorporate teachings of Milch et al. into Yoshiya system in order to reduce power consumption (col. 1, lines 6-9 in Milch et al. reference).

As to claims 7-8 Yoshiya teaches driving means is capable of limiting the brightness of said at least one predetermined signal to a maximum brightness below the maximum practical brightness of the luminous elements of said display means (in the reference average level)(see constitution).

Response to Arguments

4. Applicant's arguments filed on 12/09/08 have been fully considered but they are not persuasive.

On page 6, last paragraph of Remark, Applicant's stated that Yoshiya teaches to drive the margin section with a signal computed on the basis of an average level of the video image. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute significant quantity at which brightness level occur with the average level in order in order to suppress the marking effect and limit the disturbing effect of the unused display sections, as recited in claim 1.

On page 6-8 of Remark, Applicant's stated that the present invention teaches an improvement by using the main content (main level) of the video image, which in difference to the average level ensures that in case of a black image with some white points also the sidebars will be black. However, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., main level) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from

the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

On page 6, 3rd paragraph of Remark, Applicant's stated that None of the cited references neither alone nor in combination disclose or give any hint to reduce the disturbing, effect of active sidebars (sidebars adapting the gray level to the video level to suppress the marking effect (burn in effect)). However, Yoshiya reference in Purpose described how to prevent of burning of margine section (sidebars).

2. On pages 9-12 of Remark, Applicant's stated that The effect desired by Yoshiya is improved by the present invention as instead of an average level of the video signal (average brightness level), according to the present invention brightness values concerning the quantity at which each **brightness level occurs in one of said analysing areas(main content (main level) of the video image)** is used to compute the signal for unused areas, which is also neither disclosed nor suggested by Milch et al. or a combination of Yoshiya and Milch. However, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Telephone inquire

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid Shapiro whose telephone number is 571-272-7683. The examiner can normally be reached on 8 a.m. to 5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Hjerpe can be reached on 571-272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. S./
Examiner, Art Unit 2629
02.20.09

/Richard Hjerpe/

Supervisory Patent Examiner, Art Unit 2629